

1 SENATE BILL NO. 30

2 INTRODUCED BY O'NEIL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A JURY TRIAL IN A PROCEEDING FOR THE
5 TERMINATION OF PARENTAL RIGHTS; AND AMENDING SECTION 41-3-607, MCA."

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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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9 **Section 1.** Section 41-3-607, MCA, is amended to read:10 **"41-3-607. Petition for termination -- separate hearing -- right to counsel -- ~~no~~ jury trial.** (1) The
11 termination of a parent-child legal relationship may be considered only after the filing of a petition pursuant to
12 41-3-422 alleging the factual grounds for termination pursuant to 41-3-609. If termination of a parent-child legal
13 relationship is ordered, the court may:

14 (a) transfer permanent legal custody of the child, with the right to consent to the child's adoption, to:

15 (i) the department;

16 (ii) a licensed child-placing agency; or

17 (iii) another individual who has been approved by the department and has received consent for the
18 transfer of custody from the department or agency that has custody of the child; or19 (b) transfer permanent legal custody of the child to the department with the right to petition for
20 appointment of a guardian pursuant to 41-3-444.21 (2) At the time that a petition for termination of a parent-child relationship is filed, parents must be
22 advised of the right to counsel, and counsel must be appointed for an indigent party.23 (3) A guardian ad litem must be appointed to represent the child's best interests in any hearing
24 determining the involuntary termination of the parent-child legal relationship. The guardian ad litem shall
25 continue to represent the child until the child is returned home or placed in an appropriate permanent placement.
26 If a respondent parent is a minor, a guardian ad litem must be appointed to serve the minor parent in addition
27 to any counsel requested by the parent.28 (4) There is ~~no~~ a right to a jury trial at proceedings held to consider the termination of a parent-child
29 legal relationship.30 (5) IF A JURY TRIAL IS REQUESTED, THE COURT SHALL TAKE NECESSARY STEPS TO PROTECT THE

1 CONFIDENTIALITY AND BEST INTERESTS OF THE CHILD, INCLUDING:
2 (A) SCHEDULING THE MATTER FOR TRIAL AT THE EARLIEST DATE POSSIBLE, WITH THE MATTER TAKING
3 PRECEDENCE OVER ALL OTHER MATTERS;
4 (B) DETERMINING WHETHER THE TESTIMONY OF THE CHILD IS RELEVANT AND NECESSARY;
5 (C) IF THE CHILD'S TESTIMONY IS RELEVANT, DECIDING WHETHER THE CHILD WILL TESTIFY BY DEPOSITION OR
6 BY OTHER ALTERNATIVE MEANS; AND
7 (D) ANY OTHER PROTECTIVE MEASURES."

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